

In Re: Players Billiards)
 Personal Property Account No. P-070276) Shelby County
 Tax year 2004)

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Meanwhile, however, the taxpayer had received the aforementioned "correction of error" notice dealing with the *preceding* tax year (2004). This notice included the following statement:

If you disagree with this change in assessed valuation, TCA 67-5-509(e) allows you to appeal directly to the State Board of Equalization **within forty five (45) days after notice is sent.** [Emphasis added.]

Unfortunately, it was not until some five months later that Mr. Shirley filed this appeal with the State Board. According to his written explanation, he believed that his then-pending appeal before the county board for tax year 2005 "would correct the problem."

The taxpayer contends that the State Board may accept this appeal under the "reasonable cause" provision of Tenn. Code Ann. section 67-5-1412(e). That subsection reads (in relevant part) reads as follows:

If notice of an assessment or classification change pursuant to **section 67-5-508** was sent to the taxpayer's last known address later than ten (10) days before the adjournment of the local board of equalization, the taxpayer may appeal directly to the state board at any time within forty-five (45) days after the notice was sent....The taxpayer has a right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the board shall accept such appeal from the taxpayer **up to March 1 of the year subsequent to the year in which the assessment was made.** [Emphasis added.]

It is doubtful whether the "reasonable cause" statute even applies in the case of an appeal from a correction of error under Tenn. Code Ann. section 67-5-509 – particularly where, as here, the appeal is filed after March 1 of the year following the tax year in dispute. Further, even assuming the possibility of granting such relief, it would not be justified under these circumstances. That Mr. Shirley honestly believed his appeal to the county board in 2005 would be sufficient to take care of the prior tax year as well is recognized. But the Assessment Appeals Commission, appointed by the State Board under authority of Tenn. Code Ann. section 67-5-1502, has declared that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the "reasonable cause" provision to waive these requirements except where the failure to meet them is due to **illness or other circumstance beyond the taxpayer's control...**[Emphasis added.]

Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992, Final Decision and Order, August 11, 1994), pp. 2-3.

The assessment change notice of August 22, 2005 duly informed the taxpayer of the deadline for appeal to the State Board and, like the county board's decision letter, clearly indicated the tax year to which it pertained. Absent any indication that Mr. Shirley was given inaccurate or misleading information concerning the appellate process, the administrative judge

cannot conclude that a "circumstance beyond the taxpayer's control" delayed the initiation of this appeal.

Order

It is, therefore, ORDERED that this appeal be dismissed for lack of jurisdiction.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of December, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Glenn Shirley, Players Billiards
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office